BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re:	Hazen and Nancy Page)
	Ward 57, Block 9, Parcel 35)
	Residential Property) Shelby County
	Tax year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$128,300	\$204,300	\$332,600	\$83,150

On July 29, 2006, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a jurisdictional hearing in this matter on October 17, 2006 in Memphis. In attendance at the hearing were Hazen Page, co-owner of the property in question; John Zelinka, Esq., legal advisor to the Shelby County Assessor of Property ("Assessor"); and staff appraiser Ronald Nesbitt.

Findings of Fact and Conclusions of Law

This appeal concerns a single-family residence at 4146 Kriter Lane in Memphis. In 2005, the Assessor reappraised this property at \$332,600. Mr. Page made timely written complaint to the Shelby County Board of Equalization ("county board"). The county board-appointed officer who held a preliminary hearing on the complaint recommended a reduced value of \$273,600; however, the Assessor's office took exception to that figure. The case was set for hearing before the full county board on April 6, 2006 at 10:30 am.

Neither Mr. nor Ms. Page appeared for the scheduled hearing before the county board.¹ As a result, it affirmed the Assessor's original valuation. Imprinted on the county board's decision letter of April 11, 2006 was the following statement:

You may accept the (county board) value or you may appeal to the State Board of Equalization within forty-five (45) days. [Emphasis added.]

According to Mr. Page's testimony, upon receipt of this letter, he tried unsuccessfully "well into May" to schedule another hearing date through county board Director David Newsom.

¹In a letter to the State Board dated August 11, 2006, Mr. Page ascribed his failure to attend the county board hearing to "personal reasons." Curiously, the materials in the record indicate that he was not notified in writing of the date and time of such hearing until the very day it was held.

Around the end of that month, he obtained appeal forms from the office of the State Board. Mr. Hazen could not explain why a period of two months elapsed before those forms were completed and returned to the State Board.²

Tenn. Code Ann. section 67-5-1412(e) provides (in relevant part) that:

Appeals to the state board of equalization from action of a local board of equalization must be filed before August 1 of the tax year, or within forty-five (45) days of the date notice of the local board action was sent, whichever is later....The taxpayer has the right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made. [Emphasis added.]

The statutory deadline for filing an appeal to the State Board is "a jurisdictional prerequisite which cannot be waived with the consent of the parties." Tenn. Atty. Gen. Op. 92-62 (October 8, 1992), p. 10.

It is undisputed that Mr. and Ms. Page's appeal was filed more than 45 days after the county board's decision letter was sent. Further, inasmuch as this appeal arrived after March 1 of the year following the tax year in controversy (2005), relief would not appear to be available to the appellants under the express terms of the "reasonable cause" exception. See Christ the Rock Church (Shelby County, Tax Year 1993, Final Decision and Order, August 1, 1996). Moreover, even apart from this consideration, there is no apparent justification for granting such relief in this instance. As historically construed by the Assessment Appeals Commission, in the context of Tenn. Code Ann. section 67-5-1412(e), the term reasonable cause means some circumstance beyond the tax payer's control (such as disability or illness). See, e.g., William Ronald Travis (Davidson County, Tax Year 2001, Final Decision and Order, August 13, 2003). There is no indication of any such impediment here.

Order

It is, therefore, ORDERED that this appeal be dismissed for lack of jurisdiction.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the

²The tax year in dispute was incorrectly entered on the appeal form as 2006.

appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of November, 2006.

PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Hazen and Nancy Page Tameaka Stanton-Riley, Mgr. Appeals Department, Shelby County Assessor's Office

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